

**BEFORE THE**  
**Federal Communications Commission**  
**WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Standardized and Enhanced Disclosure	)	MM Docket No. 00-168
Requirements for Television Broadcast Licensee	)	
Public Interest Obligations	)	
	)	
Extension of the Filing Requirements	)	
For Children's Television Programming	)	MM Docket No. 00-44
Report (FCC Form 398)	)	
	)	
Notice of Public Information Collection(s)	)	OMB Control No. 3060-0214
Being Reviewed by the Federal	)	
Communications Commission	)	

**COMMENTS ON PROPOSED INFORMATION  
COLLECTION REQUIREMENTS**

Broadcasting Licenses Limited Partnership; Davis Television Wausau, LLC; Eagle Creek Broadcasting of Corpus Christi, LLC; Eagle Creek Broadcasting of Laredo, LLC; Educational Broadcasting Corporation; Journal Broadcast Corporation; Multicultural Television Broadcasting LLC; Mountain Licenses, L.P.; Ramar Communications Ltd., II; Sarkes Tarzian, Inc.; Shooting Star Broadcasting Inc.; Stainless Broadcasting, L.P.; Televiscentro of Puerto Rico, LLC; Western Kentucky University; and WQED Multimedia (the "Joint Commenters")<sup>1</sup> by their attorneys, hereby submit these comments in response to the Notice of Public Information Collection(s)

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<sup>1</sup> The Joint Commenters are the licensees of 38 television stations listed on Attachment 1 hereto.

Being Reviewed by the Federal Communications Commission<sup>2</sup>, (the “*PRA Notice*”), regarding information collection required for the Standardized Television Disclosure Form (FCC Form 355).<sup>3</sup>

The Joint Commenters have reviewed and agree with comments submitted by the National Association of Broadcasters (“NAB”) in response to the *PRA Notice*.<sup>4</sup> As NAB’s Comments demonstrate, the Commission has grossly understated the burdens that the new standardized and enhanced disclosure requirements impose on broadcasters, while significantly overstating any benefits of these requirements.<sup>5</sup> NAB provides a detailed, section-by-section review of FCC Form 355, pointing out the specific, significant burdens and failures of each section of the form. In addition, NAB establishes that the Commission has misapprehended and understated the significant burdens and costs associated with the requirement that television stations post significant amounts of their public inspection files on-line. For the reasons set forth in NAB’s Comments and as further explained herein, the Joint Commenters, like NAB, believe that the collection of information required by the enhanced disclosure requirements fails to meet the standards of the Paperwork Reduction Act, (“PRA”)<sup>6</sup> and thus, that the Commission cannot

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<sup>2</sup> 73 Fed. Reg. 13541 (Mar. 13, 2008).

<sup>3</sup> Adopted by the Commission on November 27, 2007. *See* Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, *Report and Order*, 23 FCC Rcd 1274 (2008) (“*Enhanced Disclosure Order*”).

<sup>4</sup> *See* Comments of the National Association of Broadcasters on Proposed Information Collection Requirements, OMB Control No. 3060-0214 (filed May 12, 2008) (“*NAB Comments*”).

<sup>5</sup> *Id.* The Joint Commenters, among others, have sought reconsideration with respect to the adoption of Form 355. *See* Petition for Reconsideration of Broadcasting Licenses Limited Partnership, et al. (filed Apr. 14, 2008) (the “*Petition for Reconsideration*”).

<sup>6</sup> *PRA Notice* at 13541.

properly make the requisite PRA certification to the Office of Management and Budget (“OMB”).<sup>7</sup>

**A. The Proposed Collection of Information is Not Necessary for the Proper Performance of the Functions of the Commission, and is of Minimal Practical Utility.**

The *PRA Notice* seeks comment on “[w]hether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility.”<sup>8</sup> In its *Enhanced Disclosure Order*, the Commission stated that it was adopting FCC Form 355 to “*replace the quarterly issues/programs list*”<sup>9</sup> that television stations have completed and maintained in their public files since 1984.<sup>10</sup> Adoption of this “*revised disclosure requirement*,” claims the Commission, was a “*narrowly tailored and . . . effective response*” to a concern that television station public files lack “uniformity,” which makes them less “accessible.”<sup>11</sup> In sum, the Commission claims that, by adopting FCC Form 355, it is merely substituting one version of information collection with another, in a “simpl[e] attempt[ ] to obtain uniformity in reporting.”<sup>12</sup> The new form is not, according to the Commission, intended to address any “rule violations by licensees or the failings of a particular station,”<sup>13</sup> or even the television industry generally.

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<sup>7</sup> See 44 U.S.C. § 3506(c)(3).

<sup>8</sup> *PRA Notice* at 13541.

<sup>9</sup> *Enhanced Disclosure Order* at ¶ 34 (emphasis added); see also *id.* at ¶ 32.

<sup>10</sup> See 47 C.F.R. §§ 73.3526(e)(11)(i), 73.3527(e)(8).

<sup>11</sup> *Enhanced Disclosure Order* at ¶¶ 34-38 (emphases added).

<sup>12</sup> *Id.* at ¶ 38.

<sup>13</sup> *Id.* at ¶ 37.

As NAB's Comments emphasize, the Commission has not established that the new Form 355 provides any uniformity in reporting. The form contains a myriad of hair-splitting categorizations that require broadcasters to attempt to compartmentalize program segments into narrow, yet overlapping categories. For example, broadcasters must differentiate programming that addresses "local news," "local civic affairs," "local electoral affairs," and "other local" issues.<sup>14</sup> Broadcasters attempting to navigate the form's jumble of jargon can only be expected to respond with reports that will be anything but "uniform." Such an elemental flaw, in a form designed to promote "uniformity," fails to qualify the form as "necessary for the proper performance of the functions"<sup>15</sup> of the Commission.

Moreover, the Commission has failed to explain how the vastly expanded scope of reporting mandated by the form, which goes far beyond what was required for the issues/programs list, or even the pre-1984 program logging requirement, is related to the stated purpose of "uniformity." The Commission's complaint about the issues/programs lists was not the *absence of quantity* of their contents, but rather, the *disparity* in their organization and formatting.<sup>16</sup> But FCC Form 355, rather than being a "narrowly tailored" response to an asserted need for "uniformity," significantly expands the scope of information to be reported – resulting in an expansive demand for comprehensive information on programming minutiae.<sup>17</sup> In short,

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<sup>14</sup> FCC Form 355, Section 2 ("Programming Information").

<sup>15</sup> 44 U.S.C. § 3506(c)(2)(A)(i).

<sup>16</sup> *Enhanced Disclosure Order* at ¶¶ 32 and 38.

<sup>17</sup> NAB estimates that broadcasters will expend more than 3.6 million hours annually responding to FCC Form 355, "*more than the burden associated with the former television programming log requirement, which GAO said was the most burdensome requirements imposed on business by the Government.*" *NAB Comments* at 13.

the form has become a “dragnet . . . for every program segment broadcast by a station which the licensee might ever want to claim to be creditworthy in the face of a renewal challenge.”<sup>18</sup>

The confusing categorizations and extreme detail of the form will make it of limited practicality for citizens. Under the current issues/programs list system, a viewer requesting information about a station’s service to the community is presented an easily digestible, succinct, informative list. A member of the public attempting to navigate a completed FCC Form 355 will encounter page after page of bureaucratic terminology unfamiliar to non-broadcasters, along with a maze of boxes and charts. Aggregation of the forms on the Commission’s website, as the Order proposes, will do nothing to render them more “practical.” In sum, FCC Form 355 fails the PRA’s mandate that an information collection entail “practical utility.”<sup>19</sup>

**B. The Commission’s Estimation of the Burdens of the Information Collection Mandated by FCC Form 355 is Insufficient and Incorrect.**

The *PRA Notice* seeks comment concerning “the accuracy of the Commission’s burden estimate.”<sup>20</sup> The Commission’s last stated estimate of the time necessary to complete one FCC Form 355 is “2.5 – 52 hours,”<sup>21</sup> a figure so ambiguous as to be useless. Even accepting the upper-end estimate of an inexplicably wide range, the FCC’s figure is a radical understatement of the information collection burden imposed by the form. NAB estimates that each television station will spend more than 30 hours *per week* in compiling and recording the relevant

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<sup>18</sup> *Petition for Reconsideration* at 7.

<sup>19</sup> 44 U.S.C. § 3506(c)(2)(A)(i).

<sup>20</sup> *PRA Notice* at 13541.

<sup>21</sup> *Id.* at 13542.

information, an estimate more than 10 times greater than that put forth by the Commission.<sup>22</sup> Estimates provided by several of the Joint Commenters similarly indicate that the compliance burdens will be massive. WQED Multimedia found that the categorization and reporting of programming for *a single broadcast day* took 3.75 hours.<sup>23</sup> This figure translates into more than 236 hours, or 29.5 workdays, each calendar quarter. Sarkes Tarzian, Inc. estimates that to compile the information required by Form 355, and to complete and review the form, will consume at least 250 hours per quarter. The company also correctly observes that it would need to hire or promote an experienced manager to handle this task to ensure that the comprehensive requirements and instructions are fully understood and that the form is completed accurately and correctly. Journal Broadcast Group has estimated that the monitoring, record-keeping and reporting of relevant programming, including each local newscast, will require 1 to 1.5 persons working full time on this task at each station, which would suggest that compliance would require at least 455 hours per quarter.<sup>24</sup> Given its inability to establish that the procedures which impose these enormous burdens will, in fact, yield useful, and necessary information, the Commission cannot justify the obligations of FCC Form 355 within the standards of federal law.<sup>25</sup>

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<sup>22</sup> *NAB Comments* at 13.

<sup>23</sup> *Petition for Reconsideration* at 14.

<sup>24</sup> *Id.*

<sup>25</sup> *See* 44 U.S.C. §3506(c).

**C. FCC Form 355 Should Be Redesigned to Enhance the Quality, Utility, and Clarity of the Information Requested and Collected.**

The *PRA Notice* seeks comment on “ways to enhance the quality, utility, and clarity of the information collected [by FCC Form 355].”<sup>26</sup> The emphasis of FCC Form 355 is not quality, utility, or clarity. It is quantity. If the Commission’s goal is indeed to devise a form that makes “information about broadcasters’ efforts more understandable and more accessible by members of the public,”<sup>27</sup> the FCC Form 355 is a failure and will not fulfill the goal. Form 355 is a morass of industry-specific jargon and hair-splitting categories that calls for itemization of such intricacies as whether a particular program was produced by an entity that “owns or controls more than a one-third financial interest in the program, acts as the distributor for such program in syndication, or owns the copyright in such program.”<sup>28</sup>

**Conclusion**

The Joint Commenters believe that, based on both their own experience and the evidence provided by NAB, the Commission has not met the standards for certification set forth in the Paperwork Reduction Act.<sup>29</sup> Beyond these concerns, the Joint Commenters respectfully request that the Commission defer presentation of the information collection requirements in this matter

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<sup>26</sup> *PRA Notice* at 13541.

<sup>27</sup> *Enhanced Disclosure Order* at ¶ 2.

<sup>28</sup> FCC Form 355, General Instructions.

<sup>29</sup> 44 U.S.C. §3506(c)(3) (A-J) “With respect to the collection of information and the control of paperwork, each agency shall certify ... that each collection of information submitted to the Director [of OMB] (a) *is necessary for the proper performance of the functions of the Agency*, including that the *information has practical utility*; ... *reduces to the extent practicable ... the burden on persons who shall provide [the] information*; ... is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;... [and] is to be implemented in ways *consistent and compatible ... with the existing reporting and record keeping practices* of those who are to respond .... (emphases added).

to OMB for approval until the Commission has considered and acted on the numerous pending petitions for reconsideration filed by the Joint Commenters and others, and until the resolution of NAB's pending court appeal. If the Commission decides to submit the information prior to the resolution of the pending challenges, the Joint Commenters submit that the Commission should reconsider and revise its statement of the burdens the proposed reporting will require, and receive further comments from the public before presenting this information to OMB..



Respectfully submitted,

**Broadcasting Licenses Limited Partnership  
Davis Television Wausau, LLC  
Eagle Creek Broadcasting of Corpus  
Christi, LLC  
Eagle Creek Broadcasting of Laredo, LLC  
Educational Broadcasting Corporation  
Journal Broadcast Corporation  
Multicultural Television Broadcasting LLC  
Mountain Licenses, L.P.  
Ramar Communications Ltd., II  
Sarkes Tarzian, Inc.  
Shooting Star Broadcasting Inc.  
Stainless Broadcasting, L.P.  
Televicentro of Puerto Rico, LLC  
Western Kentucky University  
WQED Multimedia**

By \_\_\_\_\_ /s/

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Their Attorneys

## Attachment 1

### **Broadcasting Licenses Limited Partnership**

Broadcasting Licenses Limited Partnership is the licensee of:

Station KMVU(TV) (Fac. Id No. 32958), Medford, OR

### **Davis Television Wausau, LLC**

Davis Television Wausau, LLC is the licensee of:

Station WFXS(TV) (Fac. Id No. 86204), Wittenberg, WI

### **Eagle Creek Broadcasting of Corpus Christi, LLC**

Eagle Creek Broadcasting of Corpus Christi, LLC is the licensee of:

Station KZTV (Fac. Id No. 33079), Corpus Christi, TX

### **Eagle Creek Broadcasting of Laredo, LLC**

Eagle Creek Broadcasting of Laredo, LLC is the licensee of:

Station KVTW (Fac. Id No. 33078), Laredo, TX

### **Educational Broadcasting Corporation**

Educational Broadcasting Corporation is the licensee of:

Station WLIW(TV) (Fac. Id No. 38336), Garden City, NY

Station WNET(TV) (Fac. Id No. 18795), Newark, NJ

### **Journal Broadcast Corporation**

Journal Broadcast Corporation is the licensee of:

Station KGUN(TV) (Fac. Id No. 36918), Tucson, AZ

Station KIVI(TV) (Fac. Id No. 59255), Nampa, ID

Station KMIR-TV (Fac. Id No. 16749), Palm Springs, CA

Station KMTV(TV) (Fac. Id No. 35190), Omaha, NE

Station KPSE-LP (Fac. Id No. 51660), Palm Springs, CA

Station KSAW-LP (Fac. Id No. 59256), Twin Falls, ID

Station KTNV(TV) (Fac. Id No. 74100), Las Vegas, NV

Station WFTX(TV) (Fac. Id No. 70649), Cape Coral, FL

Station WGBA(TV) (Fac. Id No. 2708), Green Bay, WI

Station WSYM-TV (Fac. Id No. 74094), Lansing MI

Station WTMJ-TV (Fac. Id No. 74098), Milwaukee, WI

**Multicultural Television Broadcasting LLC**

Multicultural Television Broadcasting LLC is the licensee of:

Station KCNS(TV) (Fac. Id No. 71586), San Francisco, CA  
Station WMFP(TV) (Fac. Id No. 41436), Lawrence, MA  
Station WOAC(TV) (Fac. Id No. 48370), Canton, OH  
Station WRAY-TV (Fac. Id No. 10133), Wilson, NC  
Station WSAH(TV) (Fac. Id No. 70493), Bridgeport, CT

**Mountain Licenses, L.P.**

Mountain Licenses, L.P. is the licensee of:

Station KAYU-TV (Fac. Id No. 58684), Spokane, WA  
Station KFFX-TV (Fac. Id No. 12729), Pendleton, OR

**Ramar Communications II, Ltd.**

Ramar Communications II, Ltd. is the licensee of:

Station KJTV-TV (Fac. Id No. 55031), Lubbock, TX  
Station KTEL-TV (Fac. Id No. 83707), Carlsbad, NM  
Station KTLL-TV (Fac. Id No. 82613), Durango, CO  
Station KUPT(TV) (Fac. Id No. 27431), Hobbs, NM

**Sarkes Tarzian Inc.**

Sarkes Tarzian Inc. is the owner of:

Station KTVN(TV) (Fac. Id No. 59139), Reno, NV  
Station WRCB-TV (Fac. Id No. 59137), Chattanooga, TN

**Shooting Star Broadcasting Inc.**

Shooting Star Broadcasting Inc. is the owner of:

Station WZMY-TV (Fac. Id No. 14682), Derry, NH

**Stainless Broadcasting, L.P.**

Stainless Broadcasting, L.P. is the licensee of:

Station WICZ-TV (Fac. Id No. 62210), Binghamton, NY

**Televicentro of Puerto Rico, LLC**

Televicentro of Puerto Rico, LLC is the licensee of:

Station WAPA-TV (Fac. Id No. 52073), San Juan, PR  
Station WNJX-TV (Fac. Id No. 73336), Mayaguez, PR  
Station WTIN(TV) (Fac. Id No. 26681), Ponce, PR

**Western Kentucky University**

Western Kentucky University is the licensee of:

Station WKYU-TV (Fac. Id No. 71861), Bowling Green, KY

**WQED Multimedia**

WQED Multimedia is the licensee of:

Station WQED(TV) (Fac. Id No. 41315), Pittsburgh, PA

Station WQEX(TV) (Fac. Id No. 41314), Pittsburgh, PA